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BEFORE THE ARIZONA CORPORATION COMMISSION
COMMISSIONERS

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AZ CORP COMMISSION
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IN THE MATTER OF THE
 APPLICATION OF PERKINS
 MOUNTAIN WATER COMPANY
 FOR A CERTIFICATE OF
 CONVENIENCE AND NECESSITY
 IN MOHAVE COUNTY

DOCKET NO. W-20380A-05-0490

IN THE MATTER OF THE
 APPLICATION OF PERKINS
 MOUNTAIN UTILITY COMPANY
 FOR A CERTIFICATE OF
 CONVENIENCE AND NECESSITY
 IN MOHAVE COUNTY

DOCKET NO. SW-20379A-05-0489**RESPONSE TO STAFF'S REPORT**

Perkins Mountain Water Company ("the Water Company") and Perkins Mountain Utility Company ("the Utility Company") (collectively "the Companies"), pursuant to the Procedural Order dated September 21, 2005, hereby submit their Response to the Staff Report for Perkins Mountain Utility Company and Perkins Mountain Water Company Applications for Certificates of Convenience and Necessity for Wastewater and Water Services dated November 10, 2005 ("Staff Report"). On July 7, 2005, the Companies filed with the Arizona Corporation Commission ("Commission") applications for Certificates of Convenience and Necessity ("CC&N") to provide water and wastewater services to two proposed developments located in Mohave County, one in Golden Valley and the other in White Hills ("Applications").

Based upon Staff's review of the Applications, Staff is recommending conditional approval. Although the Companies do not object to a majority of the 31 conditions imposed on the Water Company and the Utility Company collectively, the Companies believe three (3) conditions for the Water Company and three (3) conditions for the Utility Company, specifically, Conditions 8, 10 and 11, are not in the public interest and

should not be adopted.

**Pursuant to Condition 8, Staff Removed the Companies'
Allowance for Hookup Fees.**

Under Condition 8, Staff recommends that the Commission require the Companies to seek and procure other means of financing for future plant, other than contributions in aid of construction. Staff's recommendation eliminates the Companies' proposed hookup fees and thereby reduces the Water Company's source of contributed capital over 5 years by \$2,581,702 and the Utility Company's source of contributed capital over 5 years by \$4,633,500 for a total reduction of \$7,217,202. Staff's recommended reduction of contributed capital has two primary effects on the Companies and their ratepayers.

First, the Companies revenues are substantially increased by a combined \$2,270,562 or 31.8%.¹ The increase is the result of a dollar for dollar increase in rate base as contributed capital is reduced, and an increase in depreciation expense resulting from the elimination of the amortization of contributed capital. Staff's recommendation results in an increase of approximately 34% for the typical residential water and wastewater bill. The following table details the increase by service and shows the impact on average residential customers.

	5-Year Total Revenue			
	Company	Staff	Staff Proposed Increase	
Water Revenue	\$ 3,287,422.62	\$ 4,035,466.92	\$ 748,044.30	22.8%
Wastewater Revenue	\$ 3,842,720.01	\$ 5,365,238.01	\$ 1,522,518.00	39.6%
Total Revenue	\$ 7,130,142.63	\$ 9,400,704.93	\$ 2,270,562.30	31.8%

Conventional Customer	Typical Monthly Bill			
	Company	Staff	Staff Proposed Increase	
Water	\$ 52.81	\$ 65.04	\$ 12.23	23.1%
Wastewater	\$ 52.00	\$ 75.00	\$ 23.00	44.2%
Total	\$ 104.81	\$ 140.04	\$ 35.23	33.6%

¹ Even with the substantial revenue increase, Staff's proposal reduces the projected Year-5 rate of return by 1.3% for the Water Company and 1.0% for the Utility Company.

Typical Monthly Bill

Age Restricted Customer	Company	Staff	Staff Proposed Increase	
Water	\$ 40.42	\$ 50.09	\$ 9.67	23.9%
Wastewater	\$ 52.00	\$ 75.00	\$ 23.00	44.2%
Total	\$ 92.42	\$ 125.09	\$ 32.67	35.3%

Second, additional paid-in capital from shareholders is increased by \$1,775,000 for the Water Company and \$2,460,000 for the Utility Company for a total increase of \$4,235,000.

The effect of Staff's recommendation is to shift the burden of providing \$7,217,202 in capital for plant from developers to the ratepayers and shareholders of the Companies. Over the first five years of operation, the ratepayer's obligation is increased by \$2,270,563 with the shareholders providing \$4,235,000 of additional paid in capital. It is the ratepayers, however, who will return the entire \$4,235,000 plus a rate of return to the shareholders over the life of the plant.

The end result of Staff's recommendation is to significantly increase the overall burden to ratepayers over many years by denying them the benefit of having the developers contribute to the cost of building plant during the first five years of operation. In contrast, according to Staff's policy, ratepayers residing in existing CC&Ns that are being expanded get the benefit of lower rates due to contributions from developers requesting service.

Staff based its decision to remove the hookup fees on "the Commission's normal procedure to allow hook-up fees only to companies already holding and operating under a CC&N." (See Staff Report, Page 8, Rate Design Section). Staff does not identify the procedure or where it is promulgated, nor does Staff cite any decision, statute, rule or policy directive of the Commission to support such procedure.

In the Interim Report of the Commission's Water Task Force ("the Water Task Force Report"), Docket No. W-00000C-98-0153, Staff recommended developing a generic hook-up fee policy/rule. There was no discussion in the Water Task Force Report limiting the hook-up fees to existing companies already holding a CC&N. Staff

1 did opine that “the reason for having the hook-up fee pay for only part of the new plant
2 is to insure that the company retains a balance between contributed plant and its own
3 investment.” Interim Report of the Arizona Corporation Commission’s Water Task
4 Force, October 28, 1999, at 16.

5 While the Commission has not adopted a generic hook-up fee policy as
6 recommended by Staff, the Water Task Force Report provides valid guidance for the
7 review of the hookup fees proposed by the Companies. In this case, the Companies have
8 presented a balanced capital structure that appropriately allocates capital between
9 contributions, advances and shareholder capital in conformance with the guidance
10 provided in the Water Task Force Report. This will ensure the Companies’ long term
11 viability, without overburdening the ratepayer.

12 Staff provided additional guidance in its June 28, 2005, Staff Report for Circle
13 City Water Company L.L.C. (“Circle City”) (Docket Nos. W-03510A-05-0145 and
14 W-03510A-05-0146). In its report, Staff stated that it “generally recommends the
15 contributed capital not exceed 25 percent of the assets required to establish service.”
16 Although Circle City is an existing company holding a CC&N, it has only 169 customers
17 and total assets of \$128,000 according to the Staff Report. Circle City requested service
18 to a non-contiguous CC&N extension to serve 10,000 new customers at an estimated
19 cost for plant facilities of \$55.4 million.

20 Considering that Circle City’s current customer count represents only 1.7% of the
21 expected total customers and Circle City’s existing assets amount to only 0.2% of the
22 proposed new plant facilities required to serve the non-contiguous CC&N, the Circle
23 City case is analogous to the Companies’ requests in this matter. In Decision No. 68246,
24 the Commission adopted Staff’s recommendation for hookup fees representing
25 contributed capital of approximately 27% of total estimated required capital and 50% of
26 the backbone plant construction estimate.

27 In this case, the Water Company has requested hookup fees that represent 14% of
28 the total estimated plant construction cost and 36% of the backbone plant construction

1 estimate. The Utility Company has requested hookup fees that represent 24% of the
2 total estimated plant construction cost and 49% of the backbone plant construction
3 estimate. The requested hookup fees are consistent with Staff's recommendation and the
4 Commission's decision in Circle City Water Company's application.

5 The capital structure submitted by the Companies results in rates that compare
6 appropriately with existing water and wastewater providers in Mohave County. (See
7 Exhibit 1). As would be expected and desired for a new provider, the Companies'
8 proposed water and wastewater rates are substantially above those for existing providers,
9 with the combined water and wastewater rate for the typical residential customer of
10 \$104.81, which is approximately 175% of the average of existing providers in Mohave
11 County. Yet, Staff's recommendations are significantly higher than the ones proposed
12 by the Companies and drastically higher than those of existing providers; the combined
13 water and wastewater rate for the typical residential customer of \$140.04 would be
14 approximately 230% of the average of existing providers in Mohave County.

15 The capital structures proposed by the Companies include hookup fees that
16 would be treated as contributions in aid of construction and represent balanced capital
17 structures. The Companies' proposed hookup fees are consistent with the guidance
18 provided in the Water Task Force Report and with Commission Decision No. 68246. It
19 is the Companies' proposed capital structure that results in rates that compare
20 appropriately with existing Mohave County water and wastewater providers and are fair
21 for consumers².

22 **Pursuant to Condition 10, Staff is Recommending That the**
23 **Companies Expand the Service Area to Include Land That Has**
24 **Not Planned for Development.**

25 Under Condition 10, Staff is recommending that the Companies include in its
26 service area, property for which there has not been a request for service nor has any

27 ² Based upon the arguments set forth above, the Companies also seek modification to Condition 2. This condition
28 recommends approval of Staff's rates as well as allowing both the Water Company and the Utility Company to
collect from its customers a proportionate share of any privilege, sales or use tax. The Companies propose changing
the condition such that the Companies' rates are approved as submitted in the Application.

1 planned development been commenced. Specifically, Staff's recommendation would
2 require the Companies to provide water and wastewater services to 120 acres owned by
3 Sports Entertainment, LLC ("SE"). Sagebrush Enterprises ("Sagebrush") has exercised
4 its option for the purchase of 320 acres ("Option Property") of the 440 acres owned by
5 SE. The transaction is due to close in March 2006. SE has intervened in this case and
6 has alleged that the Companies "failed" to include the remaining 120 acres ("SE
7 Property") in their service territories. Staff claims it is in the public interest to include
8 this land simply because it is near or contiguous to the requested CC&N area.

9 It is the Companies' position that the inclusion of the 120 acres at this time is
10 premature in that there is no request for service and there is no indication that SE intends
11 to develop the property in the near future. The Companies suspect that SE's motive to
12 include its property in the Companies service area is for the purpose of increasing the
13 value of the land, not to request needed service.

14 On the other hand, service for the Option Property is necessary because
15 development is imminent. Specifically, the entitlement process for the Option Property
16 has been ongoing for some time and has been included in the Master Plan for the
17 Villages at White Hills ("Master Plan") throughout the planning process. In addition, the
18 Option Property was included in the submission to the Arizona Department of Water
19 Resources as part of the Assured and Adequate Water Supply application process.
20 Finally, the Option Property is a part of the Master Plan that was reviewed and
21 unanimously approved by the Mohave County Planning Commission and it is expected
22 to be approved by the Mohave County Board of Supervisors on December 5, 2005, as
23 part of the Mohave County General Plan.

24 In contrast, SE did not submit a letter of request for service to provide water and
25 wastewater services to the SE Property. Furthermore, SE has not brought forth any plans
26 for development of the property, nor has SE provided to the Companies a legal
27 description for the property that it claims was excluded. In addition SE has not
28 approached the Companies to request a Main Extension Agreement. Furthermore, SE

1 has not expended any time, money or effort to prove out water adequacy for potential
2 development. SE is simply a speculative landowner attempting to capitalize on the
3 efforts of others who are going through the lengthy, complex and expensive process of
4 providing water and wastewater services for an approved master development plan.
5 SE's sole motive in this case is to increase its own property value in the market place.
6 There is no legitimate public interest for inclusion of the SE Property in the Companies'
7 service territories at this time because SE has failed to demonstrate any need for
8 services.

9 The premature inclusion of the SE Property in the Companies' service territories
10 is contradictory to Staff's stated position in other CC&N proceedings. For example, Staff
11 had recommended denial of a CC&N expansion request by Arizona Water Company for
12 "properties for which there was no request for service, since there was no demonstrated
13 need for those properties." Staff's Closing Brief, In the Matter of the Application of
14 Arizona Water Company to Extend Its Existing Certificates of Convenience and
15 Necessity at Casa Grande and Coolidge, Pinal County, Arizona, Docket No. W-01455A-
16 04-0755 at 8. As in the Arizona Water case, SE will not be able to demonstrate a
17 foreseeable need for service, let alone a current one.

18 Furthermore, White Hills Road separates SE's land from the Companies proposed
19 service area. As planned development to this area progresses, it is expected that
20 significant improvements and upgrades to U.S. Highway 93 and White Hills Road will
21 be made that will greatly impact the cost to serve the SE Property. The Companies do
22 not believe that it is in the public interest to decide today whether the ratepayers and the
23 utility companies should be obligated to assume such speculative costs at a time such
24 costs are indeterminable and the need is non-existent. As set forth above, SE is not even
25 in the planning stage of development and to anticipate the purported need for that area
26 would be speculative at best. It is also possible that when SE is finally ready to develop,
27 or sells to an entity that is, other alternative providers may be available to serve at a
28 lesser cost. If not, the Companies at that point can file for an extension to their

1 certificated area. To require the incorporation of the SE Property in the Companies
2 CC&N at this time would be premature.

3 **Pursuant to Condition 11, Staff is Recommending that the**
4 **Companies amend the Legal Description at White Hills to**
5 **Include the SE Property.**

6 As set forth above, the Companies believe that including the SE Property in the
7 current CC&N is not in the public interest at this time. Because Staff has made such a
8 recommendation, it follows that Condition 11 would require the Companies to amend
9 the legal description for The Village at White Hills CC&N area to include the SE
10 Property. Yet, the Companies believe this condition is not appropriate for this
11 application at this time. Additionally, the Companies have no legal right to access the SE
12 Property to conduct a survey in order to comply with this condition. To date, SE has not
13 provided a legal description to the Companies, nor have they given the Companies any
14 indication that they are willing or able to do so.

15 **Conclusion**

16 For all the foregoing reasons, Perkins Mountain Water Company and Perkins
17 Mountain Utility Company request that Conditions 8, 10 and 11 of Staff's Report not be
18 adopted in the Decision and Order in this matter, and that Condition 2 be modified such
19 that the Commission approve the Companies' rates as submitted in the Applications and
20 not Staff's rates as shown in the Staff Report.

21 RESPECTFULLY SUBMITTED this 23rd day of November, 2005.

22 SNELL & WILMER L.L.P.

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Exhibit 1

Exhibit 1

Water Rate Comparison

Perkins Mountain Water Company (PMWC)

To Existing Mohave County Providers and Staff Recommendation

11/22/2005

3/4" Meter

	1,000 gallons Used					
	0	4	8	12	16	20
City of Kingman	\$ 4.21	\$ 10.61	\$ 17.01	\$ 24.21	\$ 32.21	\$ 40.21
Walnut Creek	18.75	22.75	30.75	40.15	50.95	61.75
Valley Pioneers	18.00	28.40	40.30	56.70	73.10	89.50
AAWC - Mohave	7.80	11.00	15.76	20.52	25.28	30.53
Perkins Mountain	22.00	32.40	45.00	57.60	70.20	82.80
ACC -Staff PMWC	30.00	38.00	53.20	68.40	83.60	98.80

Average Existing Companies \$ 12.19 \$ 18.19 \$ 25.96 \$ 35.40 \$ 45.39 \$ 55.50

Percent Increase over Average of Existing Companies

PMWC	180%	178%	173%	163%	155%	149%
ACC -Staff PMWC	246%	209%	205%	193%	184%	178%

Staff % Increase over PMWC 36% 17% 18% 19% 19% 19%

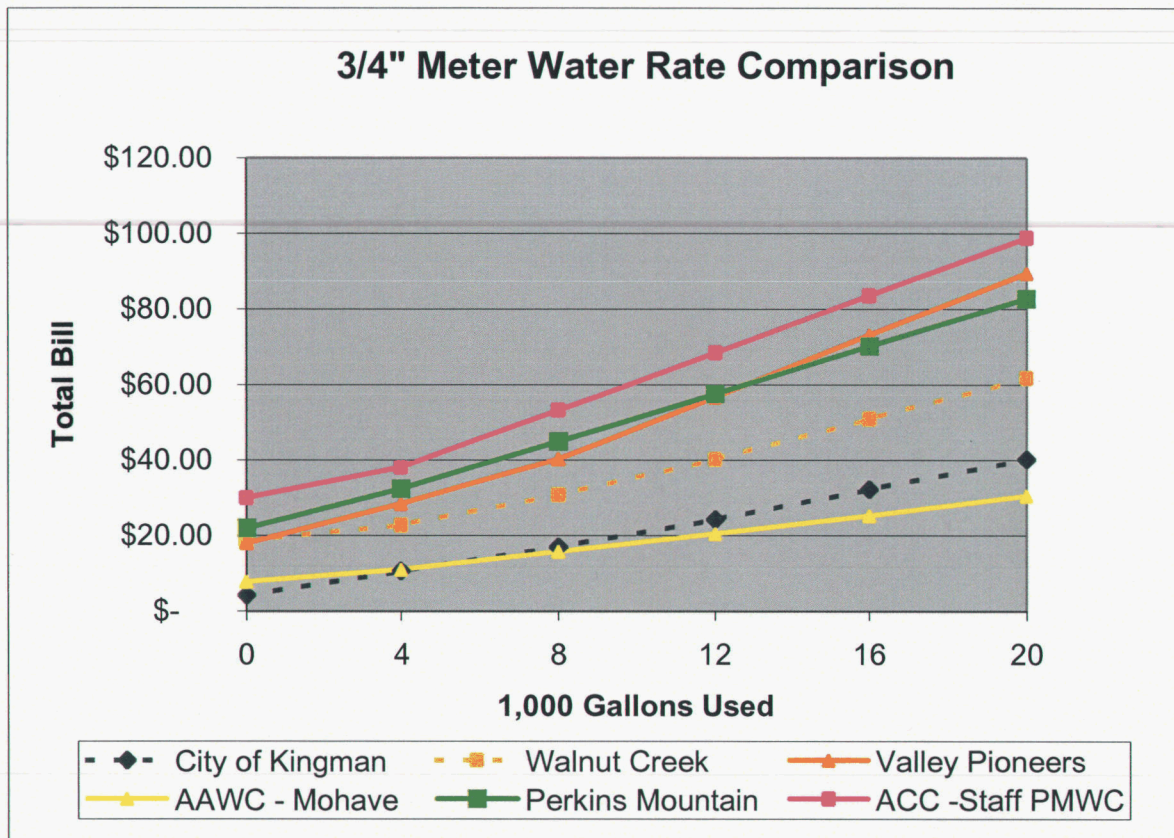


Exhibit 1

Sewer Rates Comparison Perkins Mountain Utility Company (PMUC) To Existing Mohave County Providers and Staff Recommendation

11/22/2005

3/4" Meter

	1,000 gallons Used					
	0	4	8	12	16	20
City of Kingman	\$ 6.22	\$ 9.52	\$ 12.81	\$ 16.11	\$ 19.41	\$ 22.70
Walnut Creek	-	-	-	-	-	-
Valley Pioneers	-	-	-	-	-	-
AAWC - Mohave	39.75	39.75	39.75	39.75	39.75	39.75
PMUC	52.00	52.00	52.00	52.00	52.00	52.00
ACC -Staff PMUC	75.00	75.00	75.00	75.00	75.00	75.00

Average Existing Companies \$ 22.99 \$ 24.63 \$ 26.28 \$ 27.93 \$ 29.58 \$ 31.23

Percent Increase over Average of Existing Companies

PMUC	226%	211%	198%	186%	176%	167%
ACC -Staff PMUC	326%	304%	285%	269%	254%	240%

Staff % Increase over PMUC 44% 44% 44% 44% 44% 44%

Kingman - Winter Usage assumed 65% of annual average

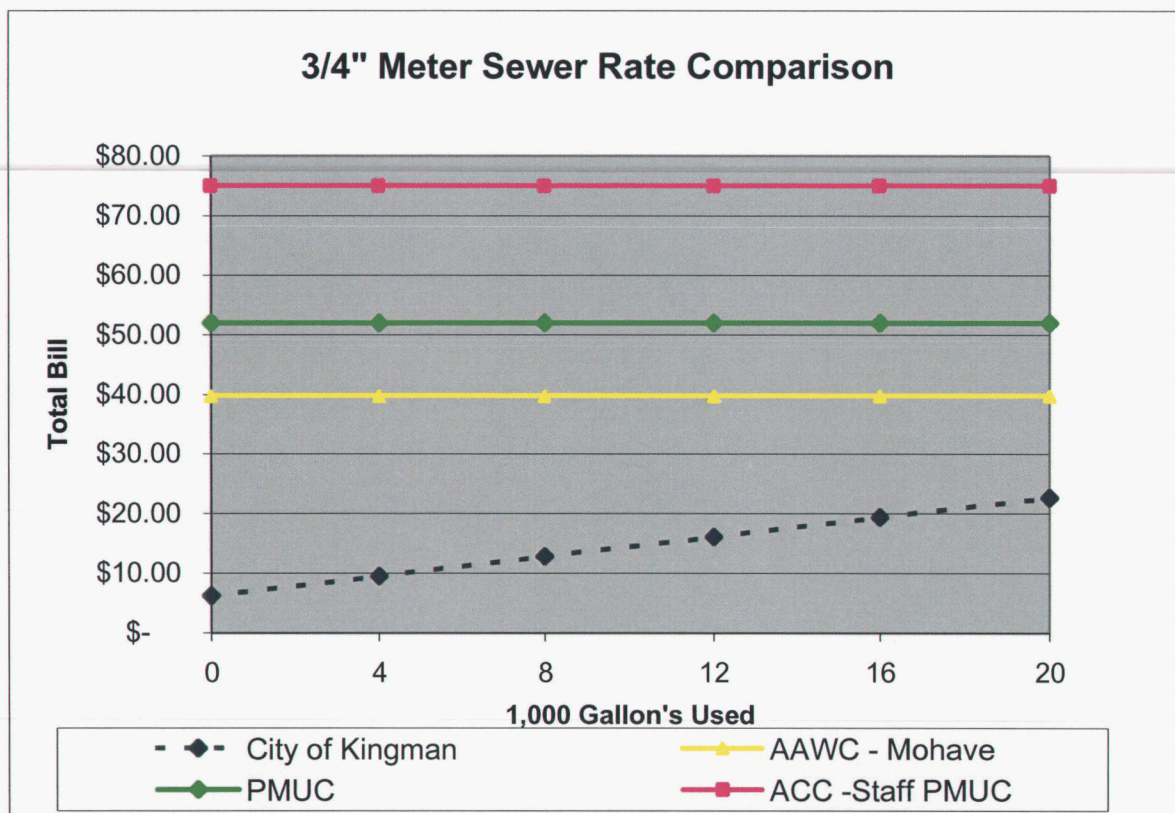


Exhibit 1

Combined Rate Comparison

Perkins Mountain Water Company (PMWC)

Perkins Mountain Utility Company (PMUC)

To Existing Mohave County Providers and Staff Recommendation

11/22/2005

3/4" Meter

	1,000 gallons Used					
	0	4	8	12	16	20
City of Kingman	\$ 10.43	\$ 20.13	\$ 29.82	\$ 40.32	\$ 51.62	\$ 62.91
AAWC - Mohave	47.55	50.75	55.51	60.27	65.03	70.28
PMWC & PMUC	74.00	84.40	97.00	109.60	122.20	134.80
ACC Staff - PMWC & PMUC	105.00	113.00	128.20	143.40	158.60	173.80
Average Existing Companies	\$ 35.18	\$ 42.82	\$ 52.24	\$ 63.33	\$ 74.96	\$ 86.72

Percent Increase over Average of Existing Companies

PWWC&PMUC	210%	197%	186%	173%	163%	155%
ACC Staff- PMWC&PMUC	299%	264%	245%	226%	212%	200%
Staff % Increase over PMWC&PMUC	42%	34%	32%	31%	30%	29%

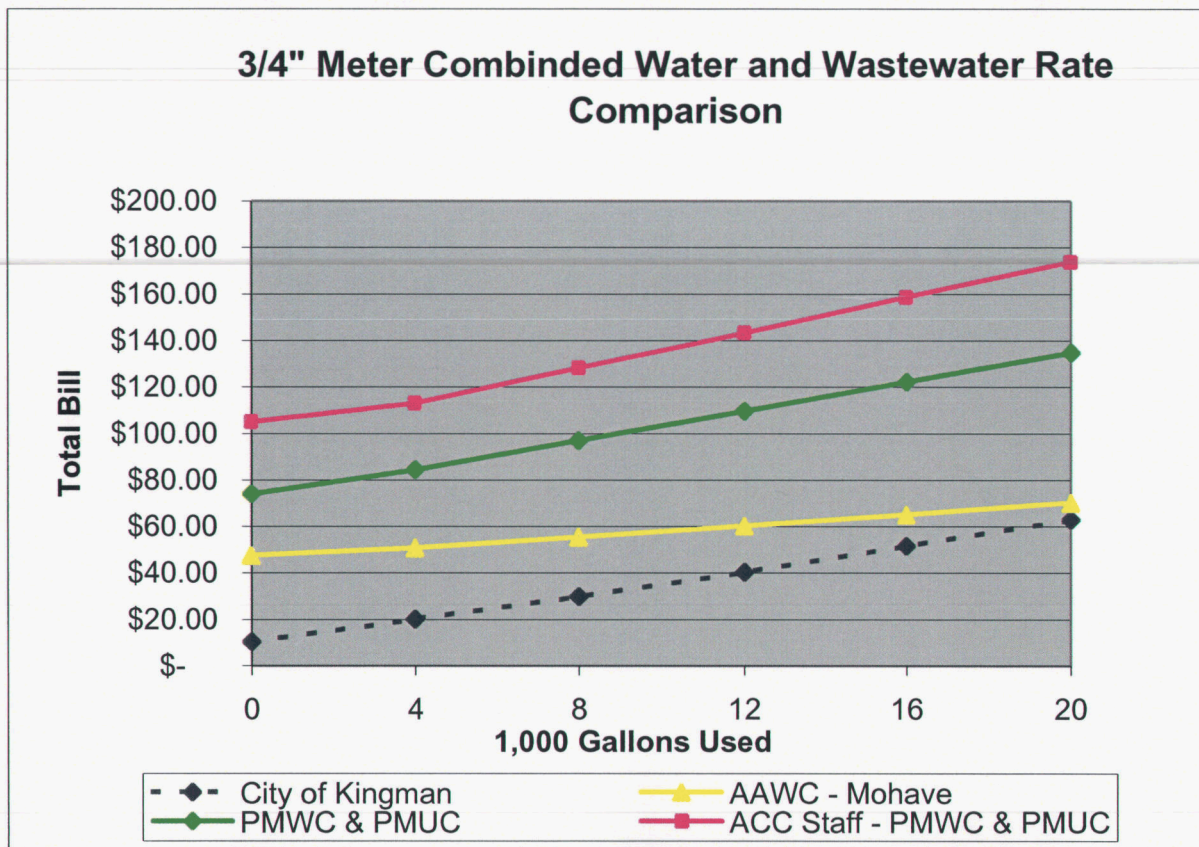


Exhibit 1

